

Seth A. Leachman, Plaintiff, Pro Se.  
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PATRICK C. ELLIS, JR.

BY \_\_\_\_\_  
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT MONTANA**

Seth A. Leachman,

Plaintiff,

v.

Judge Pedro R. Hernandez, in his  
personal capacity,

Defendant.

Case No. CV-11-41-BLG-RFC

**COMPLAINT**

COMES NOW the Plaintiff, Seth A. Leachman, by and for himself, and files  
this, his *Complaint* as follows:

**I.**

Jurisdiction is proper based upon 28 U.S.C. §1331, 42 U.S.C. § 1983, 28  
U.S.C. § 1651, and 28 U.S.C. § 2201, and 18 U.S.C. § 242. At all time herein  
mentioned, the respective parties, alleged acts, alleged personal property and  
alleged real property is located in Yellowstone County, Montana and therefore  
venue is properly placed in this Court.

**II.**

The Plaintiff, Seth A. Leachman, is the owner of all right, title, and interest in 65 horses, 3 2011-born foals, plus any new natural additions currently located in Yellowstone County, Montana. These subject horses are currently pastured on Indian Trust land located in Yellowstone County, Montana which is leased by James H. Leachman by and through a valid written lease between James H. Leachman and Dennis Old Dwarf and Terra Old Dwarf. The subject Indian Trust land is legally described as follows:

Competent lease on the Walter Greybull allotment #3245

Township 2 South, Range 28 East, P.M.M.

Section 22: S1-2S1-2;

Section 27: E1-2;

Section 26: N1-2NW1-4, SW1-4NW1-4, NW1-4SW1-4, S1-2SW1-4, NE1-4SE1-4,  
N1-2S1-2SE1-4

The subject horses are pastured on the leased land through a contract between the Plaintiff, Seth A. Leachman, and James H. Leachman.

### III.

On April 20, 2011, Judge Pedro R. Hernandez, while sitting as judge in Case No. CR-2001-0000082, in the Justice Court of Yellowstone County, willfully signed a written Order, directing the Plaintiff, Seth A. Leachman, to remove the subject horses from the herein mentioned pasture land within ten (10) days of the date of the Order.

### IV.

The Plaintiff is not a criminal Defendant in Case No. CR-2001-0000082, nor a criminal Defendant in any proceeding before the Defendant (Judge Hernandez)

in the Justice Court in Yellowstone County. The Plaintiff, Seth A. Leachman, is not a Defendant or Plaintiff in any civil action currently pending before the Defendant (Judge Hernandez) in the Justice Court in Yellowstone County. The Defendant actions were taken (1) willfully, recklessly, and wantonly against the Plaintiff (2) in the complete absence of all jurisdiction over the Plaintiff (3) in the complete absence of all jurisdiction over the Plaintiff's personal property and (4) in the complete absence of all jurisdiction over the Plaintiff's contract rights established under contract between himself and James H. Leachman.

**V.**

The Defendant, acting in his personal capacity, is a state official acting under color of state law, and the Defendant's willful conduct of signing the above-mentioned Order of April 20, 2011, has deprived the Plaintiff (1) of his federally protected constitutional right to due process under the Fifth Amendment made applicable to the states under the Fourteenth Amendment to be free from the unlawful exercise of jurisdiction by the Justice Court of Yellowstone County (2) has deprived the Plaintiff of his federally protected constitutional property rights under the Fourteenth Amendment to the use and enjoyment of his personal property as such rights relate to the Plaintiff's horses, and (3) has deprived the Plaintiff of his federally protected constitutional property rights under the Fourteenth Amendment as such rights relate to his contract with James H. Leachman to pasture the subject horses on the subject pasture land.

**VI.**



The Plaintiff has suffered emotional distress as a direct and proximate cause of the signing of the unlawful Order of April 20, 2011.

**VII.**

The Plaintiff has incurred damages in the form of out-of-pocket expenses and expenditures of travel time seeking suitable pasture land upon which to relocate the subject horses.

**FIRST CAUSE OF ACTION**

**VIII.**

The Plaintiff re-pleads the allegations contained in paragraphs I. through VII. of the foregoing and incorporates same into this first cause of action.

**IX.**

The Plaintiff has sustained actual damages as the Defendant's willful act and unlawful Order of April 20, 2011, operates to (1) impose unlawful and unnecessary expenses upon the Plaintiff to relocate the subject horses (2) has intentionally subjected the Plaintiff to emotional distress (3) operates to tortiously interfere with the Plaintiff's contract rights between himself and James H. Leachman to pasture the horses on the subject pasture land and (4) subjects the Plaintiff to the imposition of contempt charges for which the Plaintiff can be fined and/or incarcerated for failing to comply.

**X.**

The Plaintiff has a concrete and measurable controversy between himself and the Defendant as pleaded in the facts of this Complaint.

**XI.**

Pursuant to 42 U.S.C. § 1983, 28 U.S.C. 2201, Rule 57 of the Federal Rules of Civil Procedure, 28 U.S.C. § 1651 and Pulliam v. Allen, 466 U.S. 522 (1984) the Plaintiff seeks *Declaratory Relief* and a *Writ of Prohibition* against the Defendant for the willful and unlawful exercise of judicial authority over the Plaintiff and the Plaintiff's property. In the alternative, the Plaintiff seeks a *Permanent Injunction* against the Defendant.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff prays for relief as follows:

A. A *Declaratory Judgment* that the Defendant, acting in his personal capacity, acted as a state official under color of state law, and the Defendant's conduct of signing the above-mentioned Order of April 20, 2011, was willful, and has deprived the Plaintiff (1) of his federally protected constitutional right to due process under the Fifth Amendment made applicable to the states under the Fourteenth Amendment to be free from the unlawful exercise of jurisdiction by the Justice Court of Yellowstone County (2) has deprived the Plaintiff of his federally protected constitutional property rights under the Fourteenth Amendment to the use and enjoyment of his personal property as such rights relate to the Plaintiff's herein mentioned horses, and (3) has deprived the Plaintiff of his federally protected constitutional property rights under the Fourteenth Amendment as such rights relate to his herein mentioned contract with James H. Leachman to pasture the subject horses on the subject pasture land.



B. A *Declaratory Judgment* that the Defendant's willful action of signing the referenced Order of April 20, 2011, was taken in the complete absence of all jurisdiction.

C. A *Declaratory Judgment* that the Defendant's Order of April 20, 2011, is void as a matter of law.

D. A *Writ of Prohibition* be issued against the Defendant from exercising further judicial authority over the Plaintiff, or in the alternative, that a *Permanently Injunction* be issued enjoining the Defendant from further action against the Plaintiff.

E. For any and all, other appropriate relief to be determined by this Court.

## **SECOND CAUSE OF ACTION**

### **XII.**

The Plaintiff re-pleads the allegations contained in paragraphs I. through VII. of the foregoing and incorporates same into this second cause of action.

### **XIII.**

The United States Supreme Court has held that judges who exceed their lawful jurisdiction lose all judicial immunity to damage suits. In addition, the United States Supreme Court has held that judges who willfully violate the constitutional rights of a natural person have committed a crime under 18 U.S.C. § 242 which is actionable by a civil suit for intentional tort. All crimes are willful acts and intentional torts. The United States Supreme Court has held in *Imbler v.*

**Pachtman**, 424 U.S. 409, 429, that:

Even judges, cloaked with absolute civil immunity for centuries, could be punished criminally for willful deprivations of constitutional rights on the strength of 18 U.S.C. 242, the criminal analog of 1983. O'Shea v. Littleton, 414 U.S. 488, 503 (1974); cf. Gravel v. United States, 408 U.S. 606, 627 (1972).

#### XIV.

The Defendant owed a duty to refrain from the unlawful exercise of jurisdiction over the Plaintiff and the Plaintiff's personal property relating to the subject horses. The Defendant willfully breached this duty owed the Plaintiff by signing the referenced Order of April 20, 2011, and such willful breach is the direct and proximate cause of damages to the Plaintiff. The Plaintiff has sustained at least one (1) dollar in *General Damages* as a direct and proximate cause of the Defendant's willful action of signing the herein mentioned Order of April 20, 2011, and is entitled to Punitive Damages.

#### PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays for relief as follows:

- F. General Damages to be determined at a later date by a jury.
- G. Punitive Damages to be determined at a later date by a jury.
- H. Costs of filing and serving this action.
- I. For any and all, other relief deemed appropriate by this Court.

#### THIRD CAUSE OF ACTION

**XV.**

The Plaintiff re-pleads the allegations contained in paragraphs I. through VII. of the foregoing and incorporates same into this third cause of action.

**XVI.**

The United States Supreme Court has held that judges who exceed their lawful jurisdiction lose all judicial immunity to damage suits. In addition, the United States Supreme Court has held that judges who willfully violate the constitutional rights of a natural person have committed a crime under 18 U.S.C. § 242 which is actionable by a civil suit for intentional tort.. All crimes are willful acts and intentional torts. The United States Supreme Court has held in *Imbler v. Pachtman*, 424 U.S. 409, 429, that:

Even judges, cloaked with absolute civil immunity for centuries, could be punished criminally for willful deprivations of constitutional rights on the strength of 18 U.S.C. 242, the criminal analog of 1983. O'Shea v. Littleton, 414 U.S. 488, 503 (1974); cf. Gravel v. United States, 408 U.S. 606, 627 (1972).

**XVII.**

The Defendant owed a duty to refrain from the unlawful exercise of jurisdiction over the Plaintiff and the Plaintiff's contract rights. The Defendant further owed a duty to refrain from tortiously interfering with the Plaintiff's contract rights. The willful action of the Defendant signing the referenced Order of April



20, 2011, constituted an unlawful exercise of jurisdiction over the Plaintiff, the Plaintiff's contract rights, and tortuously interfered with the Plaintiff's contract rights to the referenced pasture land. The Defendant willfully breached this duty owed the Plaintiff by signing the referenced Order of April 20, 2011, and such willful breach is the direct and proximate cause of damages to the Plaintiff. The Plaintiff has sustained at least one (1) dollar in *General Damages* as a direct and proximate cause of the Defendant's willful action of signing the herein mentioned Order of April 20, 2011, and is entitled to Punitive Damages.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff prays for relief as follows:

- J. General Damages to be determined at a later date by a jury.
- K. Punitive Damages to be determined at a later date by a jury.
- L. Costs of filing and serving this action.
- M. For any and all, other relief deemed appropriate by this Court.

**FOURTH CAUSE OF ACTION**

**XVIII.**

The Plaintiff re-pleads the allegations contained in paragraphs I. through VII. of the foregoing and incorporates same into this fourth cause of action.

**XIX.**

The United States Supreme Court has held that judges who exceed their lawful jurisdiction lose all judicial immunity to damage suits. In addition, the

United States Supreme Court has held that judges who willfully violate the constitutional rights of a natural person have committed a crime under 18 U.S.C. § 242 which is actionable by a civil suit for intentional tort.. All crimes are willful acts and intentional torts. The United States Supreme Court has held in *Imbler v. Pachtman*, 424 U.S. 409, 429, that:

Even judges, cloaked with absolute civil immunity for centuries, could be punished criminally for willful deprivations of constitutional rights on the strength of 18 U.S.C. 242, the criminal analog of 1983. *O'Shea v. Littleton*, 414 U.S. 488, 503 (1974); cf. *Gravel v. United States*, 408 U.S. 606, 627 (1972).

XX.

The Defendant owed a duty to refrain from the unlawful exercise of jurisdiction over the Plaintiff. The willful action of the Defendant signing the referenced Order of April 20, 2011, intentionally subjected the Plaintiff to emotional distress. The Defendant willfully breached this duty owed the Plaintiff by signing the referenced Order of April 20, 2011, and such willful breach, is the direct and proximate cause of damages to the Plaintiff. The Plaintiff has sustained at least one (1) dollar in *General Damages* as a direct and proximate cause of the Defendant's willful action of signing the herein mentioned Order of April 20, 2011, and is entitled to Punitive Damages.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff prays for relief as follows:



- N. General Damages to be determined at a later date by a jury.
- O. Punitive Damages to be determined at a later date by a jury.
- P. Costs of filing and serving this action.
- Q. For any and all, other relief deemed appropriate by this Court.

**DEMAND FOR JURY TRIAL**

The Plaintiff is natural person. The Plaintiff is therefore entitled to the protection of his constitutionally protected rights under the United States Constitution. The Plaintiff has alleged violations of his constitutional rights in this Complaint. Pursuant to the 7th Amendment of the United States Constitution, the Plaintiff hereby demands a jury trial in the above-entitled action.

Dated this 28th day of April, 2011.

By:  \_\_\_\_\_  
Seth A. Leachman, Plaintiff, Pro Se